

ADEPT
Legal Commentaries

Spring-summer 2002

Overview of the Parliament activity in the spring-summer 2002 session

September 9, 2002

The spring-summer session of the Parliament of the Republic of Moldova started in February 2002, at the time the protest rallies staged by the Christian-Democrats were gaining grounds. The protest rallies in Chisinau determined PACE to examine how authorities of the Republic of Moldova observe the democratic principles and the provisions provided for in the Memoranda signed by Moldova with international monetary institutions. PACE monitoring of Moldova greatly affected political life in general and Parliament agenda in particular.

An overview of the legal acts adopted by the Parliament in February - July 2002 is presented below.

Enforcement of PACE recommendations

PACE recommendations resumed to initiating a constructive political dialogue, so that Communist authorities may reach a compromise with the opposition on such issues as:

1. Revising the Law on Audiovisual and turning "Teleradio-Moldova" State Company into a public company

Enforcement: On July 26, 2002 the Parliament passed the Law on National Audiovisual Public Institution "Teleradio-Moldova" and on August 15 the law entered into effect (for more details on the Law please see ADEPT Comment of August 6, 2002).

Under the law (Article 1), the National Audiovisual Public Institution "Teleradio-Moldova" is a legal, non-profit entity operating autonomously and enjoying editorial freedom, which ensures the right to uncensored, truthful and rapid information and broadcasts on the entire soil of the Republic of Moldova by observing the pluralism of ideas.

Article 2 of the Law specifies the goals of the Company, namely:

- a. ensuring free access of the society to information;
- b. fully and objectively covering all the aspects of social, political, and cultural life of the country;
- c. ensuring citizen's right to freedom of speech on political, religious, national, social, and other kind of issues by observing general interests of the society;
- d. reflecting the interests of all social strata, promoting peace, humanism and other democratic values.

The law also provides: types of Company activity (Art.3); Company's rights and responsibilities (Art.4); Company programs (Art.5); granting air time (Art.6); right to replication (Art.7); public relations (Art.9); access to information and confidentiality of the sources (art.10); governing bodies (Art.12); Observers' Council and its responsibilities (Art.13-14); Administration Council and its responsibilities (Art.15-17); financing Company activity out of the state budget, income from advertising, copyright, sponsorships and donations, etc. (Art.19); control of the Company activity exercised by the Observers' Council (Art.20), etc.

Under the transitory provisions within 4 months of the law publication (until December 15), the Company shall be reorganized into a National Audiovisual Public Institution.

ADEPT Comment: The reorganization process has already started and the employees have been notified that they would be fired in line with the Labor law. Noteworthy, in the past, reorganization had allowed employers to get rid of unloyal employees. The current legislation makes this possible as it does not require solid grounds for firing an employee, reduction of personnel being a reason good enough. As a result, members of the strike committee, who supported the Company reorganization, would be likely fired on pretending legal grounds.

2. Revising the Law on the Deputy Status in Parliament with regard to lifting deputy's immunity and withdrawing his/her Parliament mandate

Enforcement: The Parliament amended the said law and excluded the provisions that allowed Parliament to withdraw deputy mandate. Under the revised law the Parliament may declare the deputy mandate vacant only upon resignation or death, all the other cases (incompatibility or sentence for a committed crime) are in the exclusive competence of the Constitutional Court.

3. Enforcement of PACE Resolution on the Bessarabian Church

Enforcement: For more details on this issue please see ADEPT Legislative Commentary of [July 17, 2002](#). We should also mention that the Parliament completed the Penal Code so as to sanction occupation without official authority of the churches. This modification was operated so as to prevent any transfers of the churches into the property of the new Bessarabian Church.

4. Broadening the rights of Parliament opposition

Enforcement: Parliament passed a law amending the Parliament Regulation and the Law on Government so as to allow opposition factions in Parliament to recommend the publication and initiate public debates on the draft laws and Government acts.

To prevent organization of protest rallies in the future the Parliament adopted in the last day of its summer session the Law on the Modification of Legal Acts. The Law:

- introduces new sanctions to the Code of Offence for involving children in political actions;
 - introduces provisions in the Law on Deputy Status in Parliament providing that deputies may hold reunions only in compliance with the Law on Organizing Reunions;
 - introduces new provisions in the Law on Education prohibiting teachers to involve students in unauthorized reunions.
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Legal reform, fighting crime and corruption

Several legal acts of major importance have been passed by the Parliament. We should consider in detail some of the most controversial ones.

1. Civil Code of the Republic of Moldova

ADEPT Comment: The Civil Code in force until January 1, 2003 was adopted back in 1964, and although its 600 Articles were amended numerous of times, they still couldn't fully regulated the emerged social relations. The new Civil Code includes 1,620 Articles, grouped under 5 chapters as follows:

- I Chapter - GENERAL PROVISIONS;**
 - II Chapter - RIGHTS;**
 - III Chapter - OBLIGATIONS;**
 - IV Chapter - INHERITANCE LAW;**
 - V Chapter - PRIVATE INTERNATIONAL LAW.**
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2. Penal Code of the Republic of Moldova

ADEPT Comment: The new Penal Code includes a series of new provisions, namely:

- a. democracy principle (non-discrimination);
- b. application of the penal law in time and space;
- c. new classification of offences;
- d. legal entity as the subject of offence;
- e. new causes eliminating the criminal character of the offence (arrest of the offender; self-defense, physical or emotional constraint, grounded risk);

- f. new types of penalties (public works and penal arrest);
 - g. new extenuating circumstances and aggravation;
 - h. security measures;
 - i. definition of Penal Code terms;
 - j. new categories of offence, etc.
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3. Law on the Center for Fighting Economic Crime and Corruption

ADEPT Comment: The adoption of the law was difficult due to the negative public opinion, especially that of the business community which saw in the Center another structure obstructing their normal activity and an attempt of the authorities to take control over the profitable businesses. The law entered into effect on July 2002. It regulates the status of the new legal body to be formed by means of reorganizing and merging such structures as the (Financial Guard, Financial Control and Revision Department of the Ministry of Finance, Economic Police and Department of Fighting Corruption of the Ministry of Home Affairs). For more details see ADEPT Legislative Commentary of [June 10, 2002](#).

4. Law on modification and completion of the Law on Constitutional Court

ADEPT Comment: The law establishes new procedures on the enforcement of Constitutional Court Rulings. Under the law, Constitutional Court acts are official acts, which all the subjects of law should obligatory execute on the entire soil of the country. In addition, within three months of the publication of the relevant ruling of the Constitutional Court, the Government shall proffer to Parliament a draft law on the modification, completion or abrogation of the unconstitutional act. The Parliament will have to examine those drafts on a priority basis. Other amendments operated to the law oblige the Government and Presidency to abrogate unconstitutional acts and if necessary, issue new normative acts.

5. Law on modification and completion of the Penal Code and Code of Administrative Offence

ADEPT Comment: The said law specifies the sanctions for the failure to pay the salaries, pensions, scholarships and other payments in due time. If a decision maker deliberately violates for 2 months the terms set for making above payments, he/she would be sanctioned under the Code of Administrative Offence, however if he/she fails to make the payments for more than 2 months he/she would be sanctioned under the Penal Code.

6. Law on declaring the income and estate of the state officials

ADEPT Comment: Under the law state officials, judges, prosecutors, public officers and decision-makers will have to declare their income and estate. The following fall under the provisions of the law: President of the Republic of Moldova, deputies, Government members, judges, prosecutors, members of the Court of Accounts, National Bank Administrative Council, Central Electoral Commission, public administration bodies, deputy Ministers, heads of departments, chiefs of customs offices and their deputies, chiefs of agencies and other institutions of the central public administration, chiefs of state enterprises.

Those mentioned above have to declare: their income at the time of filing the declaration; all kinds of estate, bonds, as well as that of their family and their share in enterprises.

The following are the authorities entitled to examine the declarations:

- Central Control Commission - for high-rank officials;
- Department Control Commission (of the State Chancellery) - for the rest of the aforesaid.

The Law also regulates the following: confidentiality of information; transparency of declarations (publishing the declarations of high-rank officials), liability.

Economy, finance and entrepreneurship

1. Law on Salary

ADEPT Comment: The law specifies economic, legal and organization principles of remunerating the employees working based on individual working contracts concluded with the employers: legal entities, enterprises, organizations and institutions regardless of the form of property and type of legal entity.

The law provides a series of legal guarantees for the employees in cases of failure to pay them the salary in due time.

2. Law on Appraisal

ADEPT Comment: The law regulates the appraisal of goods and patrimony, professional appraisal, state and public regulation of that activity, independent appraisal. The law also provides:

- general definitions;
- types and methods of appraisal;
- taxable estate appraisal;
- appraisal requirements;
- public authorities' competence in appraisal;
- appraiser's rights and obligations.

Appraisal is important for leveraging taxes on personality as numerous cases tax evasion have been registered lately and fiscal authorities have been pointed to need of having clear-cut procedures in the field.

3. Law on production cooperatives

ADEPT Comment: The law regulates: establishing production cooperatives and their activity; cooperative patrimony, rights and obligations of the cooperative members; registration of cooperatives; paid-up capital; governing bodies; distribution of net proceeds; social insurance; bookkeeping and audit; reorganization and liquidation; merger of production cooperatives, etc.

4. Law on canceling penalties and financial sanctions

ADEPT Comment: Under the law, the penalties and sanctions worth 180 million Lei have been cancelled for a series of tax payers who managed to pay back the arrears to the state budget.

Education and science

1. Law on modification and completion of legislative act in education

ADEPT Comment: The law provides:

- a. renaming the Ministry into the Ministry of Education;
- b. dissolving the Independent Accreditation Council. The Ministry of Education shall exercise its competencies;
- c. reorganization of the Ministry of Education and approving new organizational charts.

Some experts claim that the Ministry's reorganization has been initiated so as to get rid of the officers unloyal to the incumbent governing.

2. Law on completing Article 2 of the Law no. 1070-XIV of June 22, 2000 on approving the classified list of specialization in the universities and institutions

ADEPT Comment: Under the amendment only universities could prepare specialists in medicine and pharmacy.

Army reform

The Parliament adopted the following acts in the field:

1. **Concept of military reform.**
 2. **Law on mobilization.**
 3. **Law on reserve military forces.**
 4. **Law on citizens defense education.**
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International acts

The Parliament adopted a series of international acts, as follows:

1. CIS Acts:

- Ratification of the Cooperative Agreement on fighting illegal immigration;
- Ratification of the Cooperative Agreement on fighting computerized felony;
- Ratification of the Cooperative Agreement on publishing;
- Ratification of the Cooperative Agreement on periodic press.

2. International Acts:

- Ratification of European Convention on money laundering;
- Ratification of the Agreement between the Government of the Republic of Moldova and Council of Europe on the status of its Information Office in the Republic of Moldova;
- Ratification of the Convention of the International Labor Organization on prohibiting child labor;
- Ratification of the Agreement on establishing International Winery Organization;
- Ratification of the European Convention on annulling the acts legalized by the diplomats and consuls;
- Ratification of the Convention of the International Labor Organization no. 184 on work security in agriculture;
- Adherence of the Republic of Moldova to the International Convention on fighting bomb terrorism;
- Adherence of the Republic of Moldova to the International Convention against hostage-taking;
- Ratification of the International Convention on suppressing terrorism financing;
- Ratification of the Convention on defending human rights and dignity in the context of the Convention on prohibiting human cloning.

Noteworthy in the autumn session the Parliament will have to examine the Code of Penal Procedure, Code of Offences, Law on Notary, etc.

Given the recent declarations of the Ministry of Justice it is to be expected that the Parliament might examine a new law on cults as well as a new law on philanthropy and sponsorship.

Furthermore, given the upcoming general local elections one might expect modification of the legal framework regulating the activity of the local public administration as well the one regulating elections.